P. T.C. WINNERS

B. T. C. Courts Saturday.

FIRST SET REACHES "SIX-ALL."

Large Number of Spectators Present. Caretul Playing a Feature-Mascot Goat Creates a Sensation-Prospects of Another Tournament-Notes, Etc.

The pent up excitement and nervous strain felt by tennis enthusiasts during plaintive calls, but, as usual, got off the past two weeks culminated with the the key. completion of the tournament Saturday (Overheard in the first set with the

Looking back over the recent tournament and taking note of the great interest stirred up in the city by its ad- mitted in "public" or in a "public Tennis Association, and especially to constued from the nature of the act the members of the committee which and the mischief to be remedied taken has had the management of all tourna- with the locality and its accessibility ment affairs in its hands. For uniform- to the public or people in general, as ly good playing and as a means of af- in "affrays," "intoxication," "indecent Hard Fought Doubles on the fording recreation and pleasure, the exposure," "gaming," "profane curstournament has never been excelled on ing," "using profane and obscene lan-

NOTES

A mascot goat named "Sammy Damon" because he was caught chewing the Finance Bill in an Advertiser of recent date, and descrated in scarlet and navy blue, was declared by the mem- Cr. Cases, 177. ber of the P. T. C. who led the animal around by its tail to be the cause of 16 So. Rep. 934. the victory of the Pacifice.

won the championship in doubles.



W. DILLINGHAM.

WINNERS OF CHAMPIONSHIP TENNIS DOUBLES.

afternoon, when the championship score 6-6, lady's voice)-I can't stand match between the Beretania and Pa- this much longer." cific Tennis Clubs was played off on the grounds of the former organization. And now it is predicted that tennis will Where were the police? die for a few weeks, only to blossom forth again with renewed energy, much nament in September. strengthened by the advantage of a short resting period.

The grounds of the Beretania Tennis Club were nicely arranged for the spectators, and the members of the club itself saw that nothing conducive to the comfort of their guests was in any way lacking. The club house lanal afforded the best view of the courts. Counting the people on the ground and in the carriages, which stood three and Before Jupp, C.J., FREAR and proper meaning of the language of the four deep in the street, there must have heen from 100 to 200 P

The Ewa court was in good shape for the match, which begun immediately upon the arrival of the Pacific Tennis Club team. Wodehouse and Woods of the Beretania won the toss and took the makal court, which left Dillingham and Coney of the Pacifics with the manks court and serve.

assigned to the mauka court and G. P. Wilder of the Pacifics to the makai court, as linesmen, while E. R. Adams held down the table, chair and score board of referce. W. A. Wall of the Beretanias was assigned the duty of marking up the scores in games. All these necessary personages did their work so well that there was not the least room for complaint.

Referee Adams took his seat at the table near the court, placed his score board gently in his lap, pulled out the pegs, looked at his watch and called

The ball was started rolling immediately, the Pacifics losing the first game on Coney's serve.

After that the score wavered, first in favor of the Beretanias and then in favor of the Pacifics. Both were attempting the aggressive, and likewise both were forced to retire frequently to the back lines to be ready for the "lobs" that became more and more frequent as the set drew near to a close. Wodehouse got his swift serves in quite a number of times, but finally resorted to easy placed balls. Woods was extremely careful, placing his returns with accuracy and making some fine serves down the "alleys." Dillingham excelled

in "killing" balls on long drives. The score of the first set crawled steadily to 6-6, when the Pacifics won two straight, giving them the set.

In the second set sides were changed and the score reached 4-4 with the con- nor game as in the first set. The Pacifics

None of the players being tired from the exertion of the first two sets, the that the language used by defendant kind as those designated by them. End
O. Evenson, the man who usual time allowance of seven minutes was not taken, and play continued al-

most immediately. Sides were again changed. The Berestanias and Pacififics won a game aplece S. v. Bennett, 16 Blatch. 338 (12 Myers' which primarily attaches to the genand then the latter gradually crawled Fed. Dec. 2487). away, winning the set with a score of It is not necessary however nor prop- jected when there are adequate grounds

First set, 8-6, Pacifics. Second set, 6-4, Pacifics. Third set, 6-2, Pacifics.

At the end of the match the members club house, giving three cheers and a members of the B. T. C. This was followed by three cheers from the Beretania men for the champions of 1896 between the members of the two clubs,

showing the existence of good feeling. For the courtesy and kindness shown the Pacifies have nothing but words of house, or next door; several people praise and thanks.

W. H. CONEY

Wodehouse hit the same hole in the net three times while serving.

There will probably be another tour-

March Term. 1896.

Hawaiian Islands.

WHITING, JJ.

punishable the use of "vulgar, profane or obscene language in any street, highway store, shop or other public place or place of public resort," is violated when such language is used by a person while on the veranda of his own house of person- passing on such street.

ING, J.

ising vulgar and obscene language in

contrary to law.

the Session Laws of 1892.

Session Laws of 1892.

4. The Court had no jurisdiction unconviction, as no offense is proven.

The offense charged is under the Code (and not Chap. LXI., Laws 1892, appeal, probably a clerical error).

It shall be unlawful for any person

was committed because (1) the language used was not "profane," "vulgar"
nor "obscene;" and (2) because the
where a general word follows specific

The wound was inflicted at half past testants playing the same kind of a place where the language was used was and particular words of the same na- five, and it was two hours later before not a "public place" nor any other of ture as itself, it takes its meaning from the police were notified. He lost a great won two straight and took the second the places named within the meaning them and is presumed to be restricted deal of blood in the meantime, and of the statute.

> was at least in part profane and in lich on Int. of Stat. Sec. 405. part obscene, and comes within the

decision. The Public Place.

Defendant was on the veranda of his own house at Kamoiliili, in Honolulu, the terms are to receive their plain and of the P. T. C. rallied in front of the on the outskirts of the city on the new ordinary meaning and courts are not road cut in the McCully premises from at liberty to impose on them limitatiger for Woods. Wodehouse and the Beretania to King street; the house is tions not called for by the sense or obsituated a short distance (12 to 25 feet) jects or mischief of the enactment. from the public street; the prosecuting witness's house is next to defendant's Then there followed hearty handshakes and separated by a fence; seven o'clock in the evening was the time when the language was used; several people were For the courtesy and kindness shown present, but they lived there either at them by the Beretania Tennis Club. defendant's or at prosecuting witness's tute. Statutes should be interpreted were passing on the street.

declared "offenses" when done or comvent, it seems but fitting that proper place," or "place of public resort," and what is ex tredit should be given to the Hawaiian the meaning of such words has been S Haw. 69.

pose is not for another.

"Affreys." Rex v. Hunt, 1 Cox Cr.

"Gomine." Graham v. State (Ala.)

But these instances are not so analo-

7 Am. & Eng. Encyc. of Law, 534.

both are for the protection of decency and good morals. To say that a person may stand within the vious intention of the Legislature." boundaries of his own private premises on a public street and make use of obscene language or expose indecently his person in such a situation that passers by on the public road might in ground that the place is not a public one within the strict letter of the sta-Hats were won and lost on the match. tute, would destroy the true intent of offices generally other than those

It is claimed that the use in the Act of the words "or other public place" limits such a place to a street, highway. shop or store and places similar; that In the Supreme Court of the the construction of a penal statute should be liberal in favor of the ac-

The Court cannot by construction create a crime or offense. In the Queen v. Gay, 8 Haw. 471, the Court say, "A penal law cannot be extended by con-THE REPUBLIC OF HAWAH V. BEN. struction. The act constituting the offense must be within both the letter and spirit of the statute. Unless the statute brings a case within its letter, the rule of strict construction forbids statute (Chap. 64. Laws of 1892) making by construction, and requires it to avoid stances, its accessibility to the public ne Court to create a crime or penalty the same by construction."

In the Queen v. San Tana, 9 Haw. 108. "We cannot change the language of the statute, supply a want, or enlarge upon it in order to make it suit close to a public street within hearing a certain state of facts. We do not legislate or make laws. "Even where the Court is convinced in its own mind L de L Ward of the Beretanias was OPINION OF THE COURT BY WHIT. that the legislature really meant and intended something not expressed by the phraseology of the Act, it has no The defendant was charged with authority to depart from the plain meaning of the language used. 'I can- STABBING AT MOILILL a public place in Honolulu, etc., and not doubt, says Lord Campbell, what appeals to this Court on the following the intention of the legislature was, points of law certified by the District but that intention has not been carried into effect by the language used. . . 1. That the finding and conviction of It is far better that we should abide the District Court in the above case is by the words of the statute than seek to reform it according to the supposed 2. That the place where the alleged intention. * * Every departure language was used is not a public place from the clear language of the statute within the meaning of Chap. LXI. of is in effect an assumption of legislative powers by the Court. It has indeed 3. That the alleged language is not been intimated that this is the case vulgar, profane and obscene language, whenever the Court permits the connot constitute an offense under the pro- the construction of a doubtful act. The visions of the said Chap. LXI. of the judge must decide but the law has not spoken. It is evident that his functions necessarily become to a certain pp. 10-12.)

"The only means the Court has of blood on his cottage floor. provisions of Chap. 64, Laws 1892, finding the intention of the Act is from amending Sec. 3, Chap. 34 of the Penal the words in which it is expressed." as set forth in defendant's points on "forward" mean "solicit" or "pro- smith was assaulted by a native called

to use vulgar, profane or obscene lan- liberty to declare that the offense is the vicinity, returning shortly afterguage in any street, highway, store, complete and within the true meaning ward. He inquired where Jack was, shop, or other public place, or place of and letter of the Act unless the place and someone pointed out Kahoolamau, where the offense was committed is and the Norwegian stepped up behind The defendant claims that no offense within the meaning of the words "or him and plunged the blade of a pocket

to the same genus as those words, or as when he was taken to the hospital by

This is true unless there be some well known definitions. Shields v. thing to show that a wider sense was state, 89 Ga. 549 (16 S. E. Rep. 66); U. intended. The restricted meaning eral word in such circumstances is re er to set forth such language in this to show that it was not used in the limited order of ideas to which its pre-

decessors belong. Endlich, Sec. 408. The general principle applies that

Endlich, Sec. 405, Sec. 410. U. S. v. Coombs, 12 Peters, 80 Statutes must be interpreted according to the intent and meaning and not always according to the letter. A thing

By the statute many acts have been legislative act must have a reasonable what is expressed. Thomas v. Norton,

> In Woodforth v. The State, the Court says, that the rule for the construction of statutes which "limits the SAVE YOUR meaning of words of general description to persons or things within the class or classes designated by preceding words of particular description, can be used only as an aid in ascertaining

The term "public place" is a relative the legislative intent, and not for the one: what is a public place for one pur- purpose of confining the operation of a statute within the limits narrower than those intended by the law maker. It 19 Am. & Eng. Encyc. of Law, 563. those intended by the law maker. It "Interienties." State v. Sowers, 52 affords a mere suggestion to the judi-Ind. 311. State v. Stevens, 36 N. H. 59. cial mind that, where it clearly appears that the law maker was thinking of a particular class of persons or objects, his words of more general description may not have been intended to embrace Chalys, Black Alpacas, Black and Colthose not within the class. The sug- ored Walter Dillingham is champion in gous as the cases of the exposure of the gestion is one of common sense. Other singles besides being in the team that person, indecent exposure." In such rules of construction are, however, cases, it is not necessary that the place equally potent, especially the primary Ward kept his eagle eye on the ser- be one where the public have an in- rule, which suggests that the intent of discriminate right of access; it need the legislature is to be found in the or-Hyde tried to imitate the goat in its not be open to the general public, be- dinary meaning of the words of the cause a place which will ordinarily be statute. Another well established prindeemed private may, by virtue of the ciple is, that even the rule requiring circumstances under which the expos- the strict construction of a penal staure is made, come within the meaning tute as against the prisoner (and in his of the term. The act itself being one favor liberally) is not violated by givagainst decency and affecting good ing every word of the statute its full and although it might be done on one's "That if any person shall abuse any private premises or in one's private judge or justice of the peace; resist or yard, yet if in view of the people pass- abuse any sheriff, constable, or other ing or in view of neighors' windows or officer in the execution of his office," at a window of one's own house in sight etc. The Court held that a "supervisor of passers by, it is done in a public of roads and highways" was within the meaning of "other officer," and that The place is a public one if the ex- "the Legislature intended that the genposure is such that it is likely to be eral words should have a broader sigseen by a number of casual observers. nification and embrace officers not of Van Houten v. State, 46 N.J. Law, 16, the particular character of those named in the statute. That it is not intended The object and intent of this statute to ignore the rule which requires penal forbidding the use of obscene language statutes as against the prisoner to be is the same as that of the stat- construed strictly and in his favor libutes against indecent exposure, and erally. But it does prevent a construction as against him, so strict, or in his

> "The words of this statute, 'or other officer,' when viewed in the light of their ordinary meaning, and of all the rules or maxims for construction, and the mischief to be remedied, to-wit, the first instance hear and in the sec- abuse or resistance to public officers and see, and yet not be guilty on the engaged in the execution of their offices, we think should be construed to embrace ministerial as well as judicial

favor, so liberal, as to defeat the ob-

Woodforth v. The State, 26 Oh. St. Foster v. Blount, 18 Ala., 687, cited at length in Sutherland on Stat. Construction, Sec. 280.

The mischief to be remedied being the violation of decency and good morals by the use of profane and obscene language in an open place where the same can be heard by the public or peostreet, the intent of the Legislature was not to restrict the words "or other public place" in their meaning to the particular words "street, highway, store or shop" and similar words, but to give them a general meaning, and a place and its location in regard to public streets, and the mischief to be prevented, and in this case we hold that the place where the language was used was a public place within the meaning of the Act.

Appeal is dismissed. W. O. Smith, Atty. Gen., for prosecution; G. A. Davis for defendant. Honolulu, May 5th, 1896.

Unpleasant Fatal Result of a Sunday Drinking Affair.

A Native Struck Down by a Norwegian-Two Hours Without Medical Attendance.

A telephone message was received a the station house at 7:20 last night t and the use of language as proved does sideration of consequences to dictate the effect that a man had been stabbed at Moiliili. Captain Scott and Special Hammer went to the place, a house situated in a lane makai of the Stone der the evidence given to make the said legislative." (Endlich on Int. of Stat. Church, and found a native known as Pipe Fittings. Jack Kahoolaman, lying in a pool of

> From information obtained it seems there was a drunken row in the after-(The Court could not make the word noon, at which a Norwegian black-Jack. The Norwegian left the place In the present case, we are not at and visited his cottage, which was in

O. Evenson, the man who did the stabbling, was arrested later in the evening by Mounted Patrolmen Ed-

How to Treat a Wife. (From the Pacific Health Journal.)

First, get a wife; second, be patient

You may have great trials and per-plexities in your business, but do not therefore carry to your home a cloudy or contracted brow. Your wife may have trials, which, though of less magnitude, may be hard for her to bear. A kind word, a tender look, will do ders in chasing from her brow all louds of gloom. To this we would add, always keep a bottle of Chamberjain's Cough Remedy in the house. It is the best, and is sure to be needed sooner or later. Your wife will then know that

legislative act must have a reasonable construction. That which is implied in a statute is as much a part of it as what is expressed. Thomas v. Norton.

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L. B. KERR, Queen Street, Honolulu.

morals has a great effect in determing whether the place is a public place, and although it might be done on one's "That if any person shall abuse any



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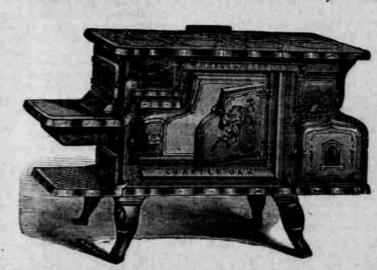
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same can be heard by the public or people who may be passing on a public street, the intent of the Legislature was

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within the intention is within the statute. Statutes should be interpreted according to the most natural and obvious import of their language. Every agents for Hawaiian Islands.

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